

THE AMENDMENTS TO THIS RULE RECEIVED FINAL APPROVAL BY THE UTAH STATE BOARD OF EDUCATION ON MAY 3, 2007. THE RULE HAS BEEN FILED WITH THE DIVISION OF ADMINISTRATIVE RULES AND IS SCHEDULED TO BE PUBLISHED IN THE JUNE 1, 2007 UTAH STATE BULLETIN, SUBJECT TO A 30-DAY COMMENT PERIOD, WITH A FIRST POSSIBLE EFFECTIVE DATE OF JULY 9, 2007.

**R277. Education, Administration.**

**R277- 603. Basic Skills Education Program.**

**R277-603-1. Definitions.**

A. "Accredited public or private educational institution" means an institution accredited by the Northwest Association of Accredited Schools or a regional accrediting association as a high school, a K-12 school, a special purpose school, a supplementary education school, or a distance education school.

B. "Basic Skills Education Program (BSEP)" means a program created to provide students who have not passed the UBSCCT, with supplemental instruction in the skills and knowledge necessary to pass the test.

C. "Board" means the Utah State Board of Education.

D. "Charter schools" means schools acknowledged as charter schools by local boards of education under Section 53A-1a-515 and this rule or by the Board under Section 53A-1a-505.

E. "Disclosure to parents" means the express acknowledgments and acceptance required for parents or legal guardians under Sections 53A-1-612(10)(b)(ii) and 53A-1-612(12)(c) and this rule.

F. "Distance basic skills education provider" means a Utah-based on-line or correspondence program provided by a public school/school district, the USOE, or an institution of higher education that satisfies the requirements of R277-603-1H.

G. "Enrolled full time" means the student is registered and attending the number of courses a school or school district requires for full-time enrollment for funding purposes. Notwithstanding school district/school policies, a student shall be enrolled in a minimum of five courses for credit to be enrolled full time.

H. "Other basic skills provider" means an education program that:

- (1) has a current business license;
- (2) meets the requirements of Section 53A-3-410 regarding criminal background checks; and
- (3) agrees not to discriminate against stipend recipients on the basis of race, color, national origin, gender, economic status, language proficiency or disability;
- (4) submits evidence of expertise and capacity to provide basic skills education which may include most employees providing education services have educator licenses, employees have more than three years of teaching experience in public or private schools, evidence of specific skills or training, accreditation by Northwest or a regional accrediting association, and evidence of curriculum

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materials aligned to the Core and the UBSCT; and

(5) agrees, if the basic skills provider is an individual employed by a school district or charter school, to abide by all rules pertaining to conflict of interest of educators working in their own fields, consistent with Section 53A-1-402.5 and R277-107, Educational Services Outside of Educator's Regular Employment.

I. "Passing UBSCT results" means a scaled score that is in the sufficient or substantial range that is obtained by a stipend recipient student in ~~[either October or February administration of the UBSCT of the student's senior year]~~any subsequent administration of the UBSCT.

J. "Qualified basic skills education provider" means a school district, a charter school, an accredited public or private educational program, or other entity that has met the following criteria:

(1) The program has a physical location in Utah where students and stipend recipients attend classes and have direct contact with the program's teachers;

(2) the program has applied for eligibility to and been approved by the USOE to enroll BSEP stipend recipients;

(3) the program has provided an affidavit to the USOE affirming its willingness and intention to comply with the requirements and rules of the BSEP; and

(4) satisfies all other requirements of the law and this rule.

K. "Qualifying UBSCT result" means ~~[a scaled score]~~the student's highest previous scaled score on the UBSCT when submitting the voucher that falls into one of the following ranges:

(1) below the midpoint of the partial mastery range but above the minimal mastery range;

(2) below the partial mastery range but above or at the midpoint of the minimal master range; or

(3) below the midpoint of the minimal mastery range.

L. "School district" means a Utah public school district.

~~[M. "Spring of the junior year" means the point in time when the student's class has had three attempts to pass the UBSCT, and the results have been reported to those students who attempted the UBSCT on the third administration.]~~

~~[N]~~M. "Stipend" means the amount that a student's parent/guardian may receive to be applied to charges for basic skills education from a qualified provider. A stipend has no value unless assigned to a basic skills education provider, and is only ~~[collectible]~~payable upon the submission of a [claim for payment] voucher by a provider and Board verification of a passing

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UBSCT result pursuant to the provisions of Section 53A-1-612, and R277-603-4 and 5.

O. "Stipend recipient" means a student who:

(1) meets the qualifications of Section 53A-1-612(4); and

(2) has ~~[participated in a minimum of two UBSCT attempts or as many attempts as possible while enrolled in a Utah public school]~~submitted a voucher to a qualified provider.

O. "Utah Basic Skills Competency Test (UBSCT)" means a test to be administered to Utah students beginning in the tenth grade to include components in English, language arts, reading and mathematics. Utah students shall satisfy the requirements of the UBSCT in addition to state and school district/charter school graduation requirements prior to receiving a high school diploma indicating a passing score on all UBSCT subtests.

P. "Voucher" means ~~[a copy of a students UBSCT results and]~~ a statement signed by the student's parent/legal guardian assigning the student's stipend to a BSEP provider. The ~~[statement to accompany UBSCT results that assigns the stipend to a BSEP provider shall be provided by the Board and shall contain the]~~ following information shall be provided on the Board-designated form:

(1) student name;

(2) student birthdate;

(3) parent/guardian name~~[, address, phone number, and other contact information];~~

(4) ~~[student social security number or student identification]~~State Student Identification Number (SSID);

~~[(5) UBSCT results for each failed UBSCT attempt;]~~

~~[[6]~~5 required parent and student acknowledgments under Section 53A-1-612 and this rule; and

(7) parent/guardian and student signatures.

## **R277-603-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board, Section 53A-1-612 which requires the Board to make rules to initiate, manage and monitor the BSEP, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide necessary standards and procedures for the Basic Skills Education Program as directed by the Legislature to assist students in passing the Utah Basic Skills Competency Test.

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**R277-603-3. State Board of Education Responsibilities.**

A. The Board shall provide school districts and charter schools with a copy of this rule, required forms, templates, and model procedures.

B. The Board shall provide applications annually to Basic Skills Education providers no later than May 1 prior to the year in which eligibility to serve BSEP stipend recipients is sought (June 1 for the 2006-2007 school year).

C. The Board shall provide a determination that an applicant meets the requirements of R277-603 and Section 53A-1-612(1)(b) to be a BSEP provider as soon as possible but no more than 30 days after the applicant submits the required application and materials. The Board may:

(1) provide reasonable timelines for satisfaction of eligibility requirements;

(2) issue letters of warning, require a provider to take corrective action within a time frame set by the Board, suspend a provider from BSEP participation or eligibility, or impose such other penalties as the Board determines appropriate under the circumstances;

(3) make available acknowledgment forms required under Section 53A-1-612(12)(c);

(4) establish appropriate consequences or penalties for providers that:

(a) fail to provide services to eligible students;

(b) fails to act in accordance with provisions of the law and this rule.

D. The Board shall ~~[make]~~maintain a list of qualified providers updated ~~[annually and available no later than May 30 of each year (June 30 for the 2006-2007 school year)]~~continuously as provider applications are received and approved.

E. For vouchers submitted to the Board prior to September 30 of the student's junior or senior year, the Board shall:

(1) verify student information and qualification for the stipend; and

(2) check results of all successive administrations of the UB SCT, starting with the October administration of that year, for passing UB SCT results; and

(3) within 60 days of final posting of UB SCT results to the data warehouse stipend payments shall be sent directly to qualified providers upon verification of a passing UB SCT result for voucher recipients registered with that provider.

F. For vouchers submitted to the Board after September 30 of

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the student's junior or senior year but prior to January 31 of the same year, the Board shall:

(1) verify student information and qualification for the stipend; and

(2) check results of all successive administrations of the UBSCT, starting with the February administration of that year, for passing UBSCT results; and

(3) within 60 days of final posting of UBSCT results to the data warehouse stipend payments shall be sent directly to qualified providers upon verification of a passing UBSCT result for voucher recipients registered with that provider.

~~[E]G.~~ The Board shall honor only ~~[requests for payments made]~~ vouchers submitted with all necessary documentation received consistent with R277-603-~~[4]~~3E and R277-603-3F.

~~[F.~~ The Board shall mail stipend payments directly to qualified providers upon their timely submission to the Board of payment request that complete the requirements of Section 53A-1-~~612(9)~~ and R277-603-~~4D~~ and R277-603-5C.]

~~[G]H.~~ If an annual appropriation is inadequate to cover all stipend payments~~[submitted from qualified providers]~~, the Board shall pay stipends on a first submitted/first paid basis or on a proportional basis as circumstances dictate.

~~[H]I.~~ The Board ~~[may]~~shall verify student UBSCT results and other program information as necessary or warranted with reasonable notice to assure compliance by a stipend recipient/BSEP provider with the provisions of Section 53A-1-602 and this rule.

#### **R277-603-4. School Districts and Charter School Responsibilities.**

A. School districts and charter schools shall provide students who have qualifying UBSCT results~~[after the spring of their junior year]~~ with voucher applications and information about how to access a list of approved public and private providers for BSEP stipends[-]:

(1) after the students' first UBSCT attempt;

(2) to students new to the school district; and

(3) to students who change providers under R277-603-6E.

B. School districts and charter schools that intend to be qualified providers shall notify the Board of their intention and provide the Board with the following information:

(1) a brief description of the BSEP that shall be available to stipend recipients.

(2) a description of amounts, if any, that stipend recipients will be charged in addition to the amount paid by the Board.

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(3) a statement of additional charges will be accompanied by an explanation to parents/students ~~o[r]~~f the school district's policies consistent with Section 53A-13-104.

(4) a statement that all those who provide BSEP instruction shall be employees of the school district or charter school.

C. School districts and charter schools may not make any charge or refund of a charge contingent upon a student's passing or failing a test. Charges relative to the BSEP are subject to the provisions of Section 53A-12-103(1)(b), and it is presumed that the student will be responsible for any fees associated with a remediation program with exceptions provided for in Section 53A-13-104.

~~[D. School districts and charter schools shall submit request for payment of vouchers in the amount of the stipend, if, on a subsequent administration of the UBSET, the stipend recipient passes the subtest corresponding to the basic skills education provided by the school district or charter school.~~

~~— E. Request for payment shall be submitted after the October administration for students who have passed the UBSET by no later than January 15, and after the February administration for students who have passed no later than April 15.~~

~~— F. Requests for payments shall only be made for students who were stipend recipients and who received basic skills education from the school district or charter school.]~~

~~[G]~~D. School districts and charter schools shall provide to the Board a list of all school district or charter school students who are qualified for stipends.

~~[H]~~E. School districts~~[7]~~and charter schools shall ~~[provide to the Board a list of those students who have assigned their stipends to the school district in such form/format as the Board may determine]~~submit vouchers for all students who have chosen to receive BSEP services from the school district/charter school consistent with R277-603-3E and R277-603-3F.

F. If a student stops receiving basic skills education from the provider, for any reason, the school district or charter school shall notify the Board within 15 days.

#### **R277-603-5. Accredited Public and Private Providers and Other Provider Responsibilities.**

A. Accredited public and private providers and other providers that intend to participate in the BSEP shall notify the Board of their intention and provide the following information/materials to the Board to be used to determine

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eligibility:

(1) a brief description of the BSEP services that will be provided to stipend recipients by the provider;

(2) a description of amounts (if any) that stipend recipients shall be charged in addition to amounts paid by the Board;

(3) a statement that private providers shall not make any charge or refund contingent on a student passing or failing a test; and

(4) a statement that all employees of a BSEP who will be providing remediation services to public school students have had criminal background checks and results have been reviewed and approved by the applicant BSEP.

B. Upon a stipend recipient's presentation to the provider of a voucher, the provider shall ~~[notify]~~submit the voucher to the Board ~~[within 10 days of the commencement of service of its possession of the voucher]~~consistent with R277-603-3E and R277-603-3F. This ~~[notification]~~voucher shall be submitted to the Board in such ~~[form/]~~format as the Board may determine.

~~[C. Accredited public and private providers and other providers shall submit request for payment of vouchers in the amount of the stipend, if, on a subsequent administration of the UBSCT, the stipend recipient passes the subtest corresponding to the basic skills education provided by the school district or charter school.~~

~~— D. Request for payment shall be submitted after the October administration for students who have passed the UBSCT, by no later than January 15, and after the February administration for students who have passed, no later than April 15.]~~

~~[E]C. [Requests for payments shall]~~Accredited public and private providers and other providers shall submit vouchers only ~~[be made]~~for students who ~~[were]~~are stipend recipients and who ~~[received]~~are qualified to receive basic skills education from ~~[accredited public and private providers and other providers]~~the provider.

D. If a student stops receiving basic skills education from the provider, for any reason, the provider shall notify the Board within 15 days.

#### **R277-603-6. Parent and Student Responsibilities.**

A. Students with UBSCT results in the ranges identified in Section 53A-1-612(5) shall qualify for stipends upon a parent/guardian signing ~~[a statement assigning the BSEP stipend to a qualified BSEP provider and giving the provider]~~the voucher

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application provided by the school district or charter school and then presenting that voucher application to the chosen provider. If the chosen provider is not the student's school district or charter school, a copy of the student's UBSCCT results for every UBSCCT attempt made by the student shall be included with the voucher application. The [statement]voucher application and UBSCCT results, if applicable, constitute a BSEP voucher.

B. A parent may not give a voucher to more than one BSEP provider. Violation of this part may result in invalidation of the voucher and disqualification from further BSEP participation.

C. Parents are entirely responsible for the choice of a BSEP provider from among those listed as qualified by the Board.

D. Parents are responsible for payment of any amounts providers may charge stipend recipients in addition to that paid by the Board.

E. ~~[Stipend recipients shall attempt the UBSCCT at every available administration after presentation of a voucher to a BSEP provider.]~~Stipend applicants may choose to change providers at the end of the student's junior year if the student's best UBSCCT result on one or more subtest(s) is in the qualifying range defined in Section 53A-1-612(5). This change shall require a new voucher to be submitted to the Board.

#### **R277-603-7. Miscellaneous Provisions.**

Educators who are employed by Utah public and charter schools may qualify as BSEP providers consistent with Section 53A-1-402.5 and R277-107.

**KEY: basic skills competency, stipend**

**Date of Enactment or Last Substantive Amendment: ~~[July 11, 2006]~~2007**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-612(12); 53A-1-401(3)**